



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 9, 2009

CBCA 1741-FEMA

In the Matter of STATE OF LOUISIANA, FACILITY PLANNING AND CONTROL

Richard F. Zimmerman and Randal J. Robert of Kantrow, Spaht, Weaver & Blitzer, PLC, Baton Rouge, LA; and P. Raymond Lamonica of Louisiana State University System, Baton Rouge, LA, counsel for Applicant.

Paul W. Rainwater, Executive Director, Louisiana Recovery Authority, Baton Rouge, LA; and Mark S. Riley, Deputy Director, Governor's Office of Homeland Security and Emergency Preparedness, Baton Rouge, LA, appearing for Grantee.

Kristen Shedd and Kim A. Hazel, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC, counsel for Federal Emergency Management Agency.

Before the Arbitration Panel consisting of Board Judges **DANIELS** (Chairman), **VERGILIO**, and **KULLBERG**.

This case involves a request by the State of Louisiana, Facility Planning and Control, that the arbitration panel direct the Federal Emergency Management Agency (FEMA) to award as a public assistance grant \$491,884,000 for replacement of Charity Hospital, rather than the \$126,142,709 which FEMA has estimated to be the cost to repair disaster-related damage to the hospital.

FEMA has asked the panel to limit its review to the evidence before the agency during its own review of the matter, and to affirm the agency's determination unless we find that it lacks a reasonable basis -- i.e., it is arbitrary or capricious. The applicant and the grantee both disagree with FEMA.

For the reasons explained by another arbitration panel in *Bay St. Louis - Waveland School District*, CBCA 1739-FEMA, on December 8, 2009, this panel denies FEMA's request. A copy of the decision of the other panel is attached. We will consider all evidence in the record created for this arbitration proceeding, and we will review that evidence *de novo*.

STEPHEN M. DANIELS
Board Judge

JOSEPH A. VERGILIO
Board Judge

HAROLD C. "CHUCK" KULLBERG
Board Judge